



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,715	07/07/2003	Clifford D. Bennett	DBZ / 466P2	7951

26875 7590 05/17/2005

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER

GREEN, CHRISTY MARIE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,715

Applicant(s)

BENNETT, CLIFFORD

Examiner

Christy M Green

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-15, 19-22 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) 16-18, 23, 29 and 30 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 15, 26 is/are allowed.
- 6) ☒ Claim(s) 4-11, 13, 14, 19-22, 24, 25, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Attached Figs 102</u> |

DETAILED ACTION

This is a third office action for serial number 10/614715, entitled Wire Mesh Chair, filed on July 7, 2003.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-11, 13-14, 19, 21, 22, 24, 25, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Leonardis, US Patent # 5,107,654.

Leonardis discloses a chair having a body (1) with an upper receiving area and a lower base (attached figure 1), the receiving area includes walls (attached figure 1) projecting upwardly from the base, the body has inner and outer surfaces that are complementary to each other (attached figures 1 and 2), and the chair are capable of being stacked within one another because of the shape of the chair (by 6 and figure 2), the body is generally tapered (at 5), the receiving area defines a small upper opening (attached figure 1) and the base defines a large lower opening (at 23), the receiving area includes notches (10), the wall define passageways above the notches, the receiving area further includes detents (12 – attached figure 2) projecting inwardly from the walls (at 16), the detents are offset from central portions of the walls, a portion of the detents is sloped toward the base (where 11 points to), the base includes a plurality of support legs (at 5) extending downwardly from the receiving area and defining a

Art Unit: 3635

plurality of apertures (at 6), the base includes a foot member (2) that is a continuous band of material extending outwardly in a horizontal plane (figure 1), the legs (at 5) are connected by the foot member (figures 1 and 2), the foot member further includes at least one portion (5) extending upwardly in a vertical plane (figures 1 and 2), the projection is located at each of the legs and extends outwardly in a horizontal plane (at the bottom – on “2”), and the receiving area and base are integrally formed of a resilient polymeric material (column 2, lines 60-62).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leonardis in view of Middleton, US patent # 3,693,310.

Leonardis discloses the claimed invention an integrally molded plastic chair as stated above in claim 1, except for the plastic is a polypropylene. Middleton teaches that it is advantageous to provide an integrally molded plastic chair that is made from polypropylene (column 4, lines 11-12). Accordingly It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Leonardis with the polypropylene material as taught by Middleton.

Allowable Subject Matter

Claims 12, 15 and 26 are allowed.

Response to Arguments

Applicant's arguments filed 1/31/05 have been fully considered but they are not persuasive.

In response to the applicants argument that Leonardis does not suggest or teach "detents projecting inwardly from the walls" as recited in claim 21, the examiner recognizes the argument, however it appears that there was no further explanation of the previous examiners interpretation of the Leonardis reference in regards to this limitation: the examiner has incorporated her interpretation of the claim limitations with references made within the rejection above, to reference numbers within the Leonardis patent, as well as, attached new figures 1 and 2 with delineations of the examiners interpretation of the "detents projecting inwardly from the walls" by the use of arrows to point out the inward direction from the walls the examiner is interpreting the claim.

In response to the applicants argument that The Middleton reference does not teach or suggest a modification of Leonardis regarding the detents projecting inwardly, the examiner recognizes the argument, however, the Middleton reference was only used to teach that it is known in the art to provide an integrally molded plastic chair that is made from the material polypropylene. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Also, it is common knowledge to those of ordinary skill to choose materials that has sufficient strength for the intended use of that material.

Conclusion

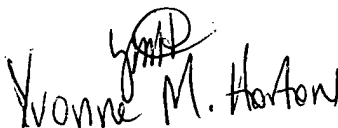
Art Unit: 3635

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 571-272-6844. The examiner can normally be reached on M,T 10:30-4:00 and Th 10:30-8:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cg
May 3, 2005


Yvonne M. Horton

